No. 99-298

Supreme Court, U.S.
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In The

Supreme Court of the United States

JEFF BRYANT,

Petitioner,

vs.

GOLDEN FLAKE SNACK FOODS, INC. and LIBERTY MUTUAL INSURANCE CO.,

Respondents.

and

WILLIAM GUNTER,

Petitioner,

vs.

CITY OF BELLEVIEW and FLORIDA LEAGUE OF CITIES,

Respondents.

On Petition For Writ Of Certiorari To The District Court Of Appeal, First District State Of Florida

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether section 440.13, Florida Statutes (Supp. 1994), which governs the medical witnesses who may testify under the Florida Workers' Compensation Law, violates the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution, and the redress of grievances clause of the First Amendment to the United States Constitution?

2. Whether the Governor's power to appoint and dismiss administrative judges under the Florida Workers' Compensation Law violates the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution, and the redress of grievances clause of the First Amendment to the United States Constitution?

3. Whether the available benefits for injured workers under Florida's Workers' Compensation Law are "an illusory substitute" for the constitutional right of access to courts in violation of the First and Fourteenth Amendments to the United States Constitution?

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STATEMENT OF THE CASE

The Proceedings Below

At the trial court level, Petitioner Bryant sought benefits for an on-the-job injury by filing a claim for benefits under the Florida Workers' Compensation Law. (Petitioners' Brief at 5). Petitioner Bryant sought to introduce medical testimony of two physicians, neither of which was qualified to offer medical opinions, in light of the limitations set out in section 440.13(5)(e), Florida Statutes (Supp. 1994). (Petitioners' App. O). The Judge of Compensation Claims (JCC) did not allow the medical testimony, and Petitioner Bryant's claim for benefits was denied. *Id.*

On appeal to the First District Court of Appeal for the State of Florida, Petitioner Bryant contended that section 440.13(5)(e), Florida Statutes (Supp. 1994), unconstitutionally denied him access to the courts, due process of law, and equal protection of the law, as provided in Article I, sections 2, 9, and 21 respectively, of the Florida Constitution. (Petitioners' Brief at 5). Petitioner Bryant also contended that section 440.15, Florida Statutes (Supp. 1994), which addresses benefits available under the Florida Workers' Compensation Law, violated Article I, sections 2 and 9 of the Florida Constitution. *Id.* Petitioner Bryant further asserted that section 440.45, Florida Statutes (Supp. 1994), which gave the Governor sole power to appoint JCCs, violated the separation of powers provision of Article II, section 3, Florida Constitution and the due process provision of Article I, section 9, Florida Constitution. *Id.* at 6. The order of the JCC was *per curiam* affirmed without written opinion by the First District

Court of Appeal (Petitioners' App. B) and Petitioners' Motion for Rehearing was denied on May 3, 1999. (Petitioners' App. C).

Like Petitioner Bryant, Petitioner Gunter also sought benefits at the trial court level for an on-the-job injury by filing a claim for benefits under the Florida Workers' Compensation Law. (Petitioners' Brief at 6). Petitioner Gunter sought to introduce two depositions of a physician who was not qualified to offer medical opinions in light of the limitations set out in section 440.13(5)(e), Florida Statutes (Supp. 1994). (Petitioners' App. M). The JCC did not allow the medical testimony, and Petitioner Gunter's claim for benefits was denied. *Id.*

On appeal to the First District Court of Appeal for the State of Florida, Petitioner Gunter contended that section 440.13(5)(e), Florida Statutes (Supp. 1994), unconstitutionally denied him access to the courts, due process of law, and equal protection of the law, as provided in Article I, sections 2, 9, and 21 respectively, of the Florida Constitution. (Petitioners' Brief at 6). Petitioner Gunter also contended that section 440.15, Florida Statutes (Supp. 1994), which addresses benefits available under the Florida Workers' Compensation Law, violated Article I, sections 2 and 9 of the Florida Constitution. *Id.* Petitioner Gunter further asserted that section 440.45, Florida Statutes (Supp. 1994), which gave the power of appointment of JCCs to the Governor, violated the separation of powers provision of Article II, section 3, Florida Constitution, and the due process provision of Article I, section 9, Florida Constitution. *Id.* at 7. The Order of the JCC was *per curiam* affirmed without written opinion by the First

District Court of Appeal (Petitioners' App. E) and Petitioners' Motion for Rehearing was denied on May 4, 1999. (Petitioners' App. F).

REASONS FOR DENYING THE WRIT

I. The Federal Claims for Which Petitioner Seeks Certiorari Were Never Addressed or Properly Presented to the State District Court of Appeal.

Because the First District Court of Appeal for the State of Florida issued *per curiam* affirmances in the proceedings below, petitioners have no right under Florida law to call upon the Florida Supreme Court for review by way of certiorari. Fla. Const. art. V, § 3. Under these circumstances, the First District Court of Appeal becomes the highest court in Florida wherein a "decision could be had." *See Nash v. Florida Indus. Commission*, 389 U.S. 235 (1967); 28 U.S.C. § 1257(a). Petitioners thus seek to invoke the Court's jurisdiction under 28 U.S.C. § 1257 (Petitioners' Brief at 2).

Under 28 U.S.C. § 1257(a), "[f]inal judgments or decrees rendered by the highest court of a state in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari . . . where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States. . . . " With "very rare exceptions," the Court has "adhered to the rule in reviewing state court judgments under 28 U.S.C. § 1257 that [the Court] will not consider a petitioner's federal claim unless it was either addressed by, or properly presented to, the state

court that rendered the decision [the Court has] been asked to review." *Adams v. Robertson*, 117 S.Ct. 1028, 1029 (1997). "When the highest state court is silent on a federal question before [the Court], [the Court] assume[s] that the issue was not properly presented, and the aggrieved party bears the burden of defeating this assumption." *Id.* If federal questions were not timely and properly raised below, this Court is without jurisdiction. *Webb v. Webb*, 451 U.S. 493, 495 (1981) (dismissing a writ of certiorari for want of jurisdiction where petitioner had only referred to state law and not the United States Constitution anywhere in the state court proceedings).

In the proceedings below, petitioners challenged specific provisions of the Florida Workers' Compensation Law as violative of the Florida Constitution. (Petitioners' Brief at 5-7). At no point before filing the Petition for Writ of Certiorari did petitioners challenge the workers' compensation provisions as violative of the United States Constitution. *Id.* Respondent acknowledges that Florida's constitutional provisions regarding due process of law, equal protection, and access to courts are similar to their counterparts in the United States Constitution. (Petitioners' Brief at 14-15). Nevertheless, for petitioners to establish and preserve their challenges to the workers' compensation provisions as violative of the United States Constitution, they should have raised such challenges in the proceedings below. Accordingly, this Court should follow its consistent refusal to decide federal constitutional issues raised here for the first time on review of state court decisions. *See Cardinale v. Louisiana*, 394 U.S. 437, 438 (1969); *see also Tacon v. Arizona*, 410 U.S. 351, 353

(1973); *Hill v. California*, 401 U.S. 797, 805 (1971); *Street v. New York*, 394 U.S. 576, 582 (1969).

II. Section 440.13, Florida Statutes (Supp. 1994), Which Governs the Medical Witnesses Who May Testify in a Workers' Compensation Case, Does Not Violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution or the Redress of Grievances Clause of the First Amendment to the United States Constitution.

Petitioners challenge section 440.13, Florida Statutes (Supp. 1994), which governs the medical witnesses who may testify in a workers' compensation case, as an unconstitutional denial of procedural due process, a violation of equal protection rights, and a violation of the right to petition the government for redress of grievances. (Petitioners' Brief at 8-9). Previously, in *Rucker v. City of Ocala*, 684 So. 2d 836, 841 (Fla. 1st DCA 1996), the First District Court of Appeal expressly rejected similar constitutional challenges to section 440.13, Florida Statutes (Supp. 1994) (holding that section 440.13(5)(e), Florida Statutes, does not violate the state constitution's provisions on due process, equal protection, or access to courts). Because this Court accords "respectful consideration and great weight to the views of the State's highest court," it should also reject petitioners' meritless attacks on the constitutional validity of section 440.13, Florida Statutes (Supp. 1994). *General Motors v. Romein*, 503 U.S. 181, 187 (1992).

A. Procedural Due Process:

Procedural due process imposes constraints on governmental decisions that deprive individuals of "liberty" or "property" interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendments to the United States Constitution. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). In the state of Florida an injured employee's right to receive workers' compensation benefits qualifies as such a property interest. *See De Ayala v. Florida Farm Bureau Casualty Ins. Co.*, 543 So. 2d 204, 206 n. 6 (Fla. 1989) (Analyzing an equal protection claim, the court stated, "[I]n the sense that the workers' compensation system replaced other rights formerly afforded to workers, we cannot agree with the district court that workers' compensation is entirely in the nature of a privilege."). Therefore, an injured employee's right to receive workers' compensation as a property right must be protected by minimum procedural safeguards including notice and an opportunity to be heard. *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) ("The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.' ").

To determine what procedural due process is to be afforded workers' compensation claimants, it should first be noted that due process, "unlike some legal rules, is not a technical conception with fixed content unrelated to time, place and circumstances." *Cafeteria Workers v. McElroy*, 367 U.S. 886, 895 (1961). Instead, due process "is flexible and calls for such procedural protections as the particular situation demands." *Morrisey v. Brewer*, 408 U.S. 471, 481 (1972); *Walters v. National Ass'n of Radiation*

Survivors, 473 U.S. 305, 326 (1985) ("legislatures are to be allowed considerable leeway to formulate such processes without being forced to conform to a rigid constitutional code of procedural necessities"). In an administrative setting, procedural due process does not always require application of the judicial model. *Dixon v. Love*, 431 U.S. 105, 115 (1977); *Mathews*, 424 U.S. at 348 ("[D]ifferences in the origin and function of administrative agencies 'preclude wholesale transplantation of the rules of procedure, trial and review which have evolved from the history and experience of the courts.' "). In fact, because workers' compensation proceedings are administrative in nature, less stringent formalities are needed to satisfy due process concerns. *Rucker*, 684 So. 2d at 841.

The Florida Workers' Compensation Law provides sufficient procedural protections to injured workers seeking to admit medical testimony in support of their claims for benefits. *See generally Rucker*, 684 So. 2d at 840-842. Under section 440.13(5)(e), Florida Statutes (Supp. 1994), for a medical opinion to be admissible in a proceeding before the judge of compensation claims (JCC), it must come from one of three sources: (1) a medical advisor appointed by the JCC; (2) an independent medical examiner; or (3) an authorized treating provider. Sections 440.13(1)(j) and 440.13(5)(a), Florida Statutes (Supp. 1994), unequivocally state that an independent medical examiner may be selected by either the employee or the insurance carrier. If an employee objects to an employer/carrier's decision to controvert his or her request for benefits based upon the opinions rendered in the independent medical examination obtained by the employer/carrier, the employee is under an affirmative obligation to

request an independent medical examination under section 440.13(5)(a), Florida Statutes (Supp. 1994). *Union Camp Corp. v. Hurst*, 696 So. 2d 873, 875 (Fla. 1st DCA 1997). When an employee makes a specific request for treatment by an independent medical examiner and the employer/carrier does not provide the treatment within a reasonable time period, the employee may obtain such treatment at the expense of the employer/carrier, if the treatment is compensable and medically necessary. § 440.13(2)(c), Fla. Stat. (Supp. 1994). The Florida Workers' Compensation Law thus allows an injured employee to choose whatever independent medical examiner he/she wants, and forces the employer/carrier, rather than the employee, to pay for the independent medical examination. *Id.* Moreover, the statute does not preclude award of an attorneys' fee to injured employees who seek an independent medical examination then incur attorneys' fees due solely to an employer/carrier's delay or opposition to the independent medical examination. *Richardson v. Showell Farms*, 734 So. 2d 590, 592 (Fla. 1st DCA 1999).

In the proceedings below, petitioners filed no motions prior to trial requesting independent medical examinations, nor did they seek any rulings requesting independent medical examinations prior to trial. (Petitioners' App. M & O). Instead, petitioners chose to seek out treatment without first requesting independent medical examinations. *Id.* At trial, petitioners did not even present good cause for their failure to first request independent medical examinations as required by law. *Id.* As a result, the JCC did not allow testimony by the unauthorized physicians, and denied petitioners' respective claims for benefits. *Id.* Petitioners have also made no

showing that their requests for independent medical examinations would have been denied had petitioners properly requested them. *Id.* Petitioners' inability to admit supportive medical testimony arose solely from their own failure to comply with established procedure, not from a constitutionally defective procedural system.

B. Right to Petition the Government for Redress of Grievances:

Petitioners also assert that section 440.13, Florida Statutes (Supp. 1994), violates their First Amendment right to petition the government for redress of grievances. (Petitioners' Brief at 9). Workers' compensation statutes represent outgrowths and modifications of basic tort law. *Weber v. Aetna Casualty & Surety Co. et al.*, 406 U.S. 164, 171 (1972). The Florida Workers' Compensation Law (like other states' workers' compensation statutes) has removed difficult obstacles to recovery in work-related injuries by offering a more certain, though generally less remunerative, compensation. *Id.* at 172. While the Florida Workers' Compensation Law abolished the right to sue one's employer in tort for a job-related injury, it provided "adequate, sufficient, and even preferable safeguards for an employee who is injured on the job." *Kluger v. White*, 281 So. 2d 1, 4 (Fla. 1973).

Although section 440.13(5)(e), Florida Statutes (Supp. 1994), does restrict the medical witnesses an injured employee may use to prove entitlement to workers' compensation benefits, it by no means eliminates an injured employee's cause of action altogether. *See Rucker*, 684 So. 2d at 843 (Fla. 1st DCA 1996). Therefore, the statute does

not deprive petitioners of their right to petition the government for redress of grievances.

C. Equal Protection:

Petitioners further contend that section 440.13, Florida Statutes (Supp. 1994), violates the equal protection clause of the Fourteenth Amendment. (Petitioners' Brief at 9). To violate the equal protection clause, however, section 440.13, Florida Statutes (Supp. 1994), would have to treat differently those falling within its purview. *See Wengler v. Druggists Mutual Ins. Co.*, 446 U.S. 142, 152 (1980) (declaring unconstitutional a provision of Missouri's workers' compensation statute mandating gender-based discrimination); *see also Weber*, 406 U.S. at 165 (holding that the Equal Protection Clause of the Fourteenth Amendment had been violated where dependent unacknowledged illegitimate children were denied equal recovery rights as compared to other children under Louisiana's workers' compensation laws). Petitioners make no such allegation. (Petitioners' Brief at 9). Instead, petitioners contend that section 440.13, Florida Statutes (Supp. 1994), imposes restrictions on access to evidence for "only one class of litigants, the injured worker." *Id.*

The "injured worker" is the only class of litigant the Florida Workers' Compensation Law was intended to govern. § 440.015, Fla. Stat. (Supp. 1994). From its inception, the Florida Workers' Compensation Law was intended "to assure the quick and efficient delivery of disability and medical benefits to [all] injured worker[s]." The tests to determine the validity of state statutes under the Equal Protection Clause require, at a minimum, that a

statutory classification bear some rational relationship to a legitimate state purpose. *Weber*, 406 U.S. at 172. Moreover, social legislation, such as a workers' compensation act, is generally subject to a rational relationship analysis. *Strohm v. Hertz Corp./Hertz Claim Management*, 685 So. 2d 37, 39 (Fla. 1st DCA 1996) (citing *B & B Steel Erectors v. Burnsed*, 591 So. 2d 644, 647 (Fla. 1st DCA 1991)). The State of Florida's interest in providing "quick and efficient delivery" of benefits surely bears a rational relationship to the establishment of a system under which *all* injured workers are treated equally.

III. Although They Perform a Quasi-Judicial Function, Judges of Compensation Claims (JCCs) Are Executive Branch Officials Properly Appointed and Removed By the Governor.

Under section 440.45, Florida Statutes (Supp. 1994), the power to appoint and remove Judges of Compensation Claims ("JCCs") is vested with the Governor. Petitioners contend that the impartiality of JCCs is jeopardized by the Governor's ability to remove JCCs "for cause" before expiration of the JCCs' four-year terms. (Petitioners' Brief at 10-11); § 440.45(2)(c), Fla. Stat. (Supp. 1994). Relying on this unproven assumption, petitioners argue that their constitutional rights have been violated. (Petitioners' Brief at 11).

JCCs are *executive* branch officials, not *judicial* branch officials. *Jones v. Chiles*, 638 So. 2d 48, 50 (Fla. 1994). Although JCCs perform a quasi-judicial function, the Florida Supreme Court has repeatedly acknowledged that JCCs are still members of the executive branch. *See id.*; *see*

also Scholastic Systems, Inc. v. Leloup, 307 So. 2d 166, 170 (Fla. 1974). Specifically, JCCs fall under the Workers' Compensation Division of the Department of Labor and Employment Security, one of the twenty-five *executive departments* provided for in Article VI, section 6, of the Florida Constitution. *See* § 440.45, Fla. Stat. (Supp. 1994). As holder of the chief executive office in which the supreme executive power is vested, the Governor has direct supervision over all executive departments unless the legislature places that supervision in the hands of one of the following other executive officers: the Lieutenant Governor, a cabinet member, or an officer or board appointed by and serving at the pleasure of the Governor. Fla. Const. art. IV, §§ 1(a), 6. Inherent in that direct supervisory authority is the power to appoint and remove executive officers from public office. *Jones*, 638 So. 2d at 50.

Under section 20.171, Florida Statutes (1998), the Department of Labor and Employment Security is under the direct supervision of the Secretary of Labor and Employment Security, an officer appointed by and serving at the pleasure of the Governor. Therefore, only the Governor or the Secretary of Labor and Employment Security, subject to the Governor's approval, has the power to appoint JCCs. *Jones*, 638 So. 2d at 50. The only restriction that may be placed on the Governor's appointment power is that confirmation by the Senate or approval of three members of the cabinet may be required by law. Fla. Const. art. IV, § 6(a). By unequivocally vesting the appointment and removal power of JCCs in the Governor, the state legislature has expressly chosen

to place JCCs and the adjudication of workers' compensation claims within the executive branch. *Jones*, 638 So. 2d at 53. Moreover, no statutory or constitutional provision exists under Florida law to prohibit the legislature from placing workers' compensation claims within the jurisdiction of the county or circuit courts, should it choose to do so. *Id.*

Nevertheless, petitioners question the legislature's actions by broadly asserting that such "unfettered discretion" in the Governor influences the JCC's impartiality. (Petitioners' Brief at 10-11). Petitioners argue that "a JCC who approved too many IME [independent medical examination] requests by injured workers ***could*** legally be removed 'for cause' ***if*** the Governor felt so many IME approvals [were] 'encouraging needless litigation' . . . " *Id.* at 10 (emphasis added). Likewise, petitioners suggest that "***any*** JCC who is too sympathetic to the plight of injured workers is subject to political removal by ***a*** governor who tires of complaints from wealthy insurance companies." *Id.* (emphasis added). Nowhere do petitioners offer specific proof, however, that such impartiality has actually occurred. Petitioners' argument must fail because it relies on the unproven assumption that the Governor of the State of Florida is aligned with insurance companies against injured workers. Moreover, petitioners never even requested that an independent medical examiner be appointed in their workers' compensation cases, and therefore, they suffered no harm as a result of the independent medical examination provision.

IV. Petitioners' Challenges to the Benefits Available Under the Florida Workers' Compensation Law Are Not Ripe and Are Unsound.

Petitioners contend that "systematic" and "dramatic" reductions in the benefits available to injured workers under the Florida Workers' Compensation Law make it an "illusory substitute" for the constitutional rights of access to courts in violation of the First and Fourteenth Amendments to the U.S. Constitution. (Petitioners' Brief at 11-14). As support, petitioners contemplate several hypothetical situations regarding the computation of benefits. *Id.* Petitioners' challenges to the benefits available under the Florida Workers' Compensation Law, however, are not ripe, and therefore are not justiciable.

The doctrine of ripeness prevents courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies. *Abbott Laboratories, et al. v. Gardner*, 387 U.S. 136, 148 (1967). In deciding whether an issue is ripe this Court has traditionally considered two factors: (1) the fitness of the issue for judicial decision; and (2) the hardship to the parties of withholding court consideration. *Id.* at 149. The proceedings below demonstrate that petitioners cannot satisfy either factor.

The JCC denied both petitioners' claims for benefits. (Petitioners' App. M & O). A judicial decision as to which benefits are available under Florida's Workers' Compensation Law and how such benefits are computed would thus have no bearing on either petitioner. Because petitioners are not entitled to benefits here, they cannot be harmed by the Court's failure to evaluate the sufficiency

of benefits. Any injury petitioners might sustain as a result of the allegedly reduced benefits would be speculative; therefore, the petitioners' challenges are premature for review.

Even if petitioners' benefits challenges were ripe, they would still be unsound. In 1993, the Florida Legislature determined that a severe financial crisis that had developed in the workers' compensation insurance industry necessitated significant revisions to the Florida Workers' Compensation Law. Workers' Compensation, ch. 93-415, preamble, 1993 Fla. Sess. Law Serv. 2347, 2351 (West). Many factors contributed to this financial crisis. For example: (1) workers' compensation health care costs were escalating at a far greater rate than the contemporary rate of inflation; (2) Florida employers were paying the second highest overall rates for workers' compensation coverage in the country; (3) the applicable wage loss formula for permanent partial disability benefits created a disincentive to return to work for those employees able to return to the same or similar employment; and (4) permanent total disability benefits were being awarded in Florida at levels more than five times the national average. *Id.*

For these reasons, the legislature took comprehensive action to ensure that the Florida Workers' Compensation Law would continue to meet the public necessity of maintaining a workers' compensation system that provides adequate coverage to injured employees at a cost that is affordable to employers. *Id.* at 2352. Contrary to petitioners' arguments, the 1994 amendments to the Florida Workers' Compensation Law actually did much to facilitate an injured workers' entitlement to benefits.

Post-1994, a workers' compensation claimant seeking permanent total disability benefits was no longer required to establish that he or she was not able uninterruptedly to do even light work available within a one hundred-mile radius of his or her residence. Workers' Compensation, ch. 93-415, § 20, 1993 Fla. Sess. Law Serv. 2347, 2390 (West). Once he or she was assigned a permanent impairment rating, an injured employee was no longer required to show wage loss in order to receive temporary partial or wage loss benefits. *Id.* Instead, the injured employee was assigned benefits at the rate of three weeks for each percentage point of impairment, even if the injured worker was back at work earning full wages. *Id.* at 2392.

Under the post-1994 statute an employee also benefited from the reduction in the amount of time he or she was eligible for temporary total disability (TTD) benefits. The shorter the time period he or she was eligible for TTD benefits, the sooner an injured employee would be eligible for permanent total disability benefits, which was more financially rewarding than temporary total disability benefits. *See generally City of Pensacola Firefighters v. Oswald*, 710 So. 2d 95 (Fla. 1st DCA 1998). Moreover, section 440.134, Florida Statutes, has been created (effective January 1, 1997) to require an employer to furnish to the employee, through managed care arrangements, medically necessary treatment for such period as the injury dictates. Workers' Compensation, ch. 93-415, § 18, 1993 Fla. Sess. Law Serv. 2347, 2385 (West). In several respects, an injured employee can more easily obtain benefits under the Florida Workers' Compensation Law, as amended, in recent years. Petitioners' arguments that the

Florida Workers' Compensation Law has become "an illusory remedy" are thus without merit.

CONCLUSION

Contrary to the requirements of Florida law, Petitioners Bryant and Gunter chose not to request independent medical examinations before trial. (Petitioners' App. M & O). Instead, they chose to seek out unauthorized treatment. *Id.* As a result, the JCC did not allow testimony from the unauthorized physicians, and denied petitioners' claims for benefits under the Florida Workers' Compensation Law. *Id.* Petitioners' constitutional rights have not been abridged in any way. Based on the foregoing arguments and authorities cited above, the Petition for Writ of Certiorari should be denied as to both Petitioners.

Respectfully submitted,

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